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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,038	06/30/2003	Max Fudim	P-5756-US	8272

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EXAMINER	
TIEU, BINH KIEN	

ART UNIT	PAPER NUMBER
2614	

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02/22/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/608,038	FUDIM ET AL.	
	Examiner	Art Unit	
	/BINH K. TIEU/	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 December 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-28* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 1-4, 8-14 and 18-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elzein (US. Pat. #: 6,259,917 ***as applied in the previous Office Action***) in view of Horvitz (Pub. No.: US 2006/0291580).

Regarding claim 1, Elzein teaches a method comprising ordering channels to be scanned (i.e., channels being arranged to be scanned from most often utilized to least often utilized or from least often utilized to most often utilized) by a station based on an associated history of said station (col.5, lines 38-50; col.5, line 62 through col.6, line 8).

It should be noticed that Elzein teaches the associative history storing successful association attempts. Elzein fails to clearly teach the associative history storing failed association attempts. However, Horvitz teaches channel data memory 250 as shown in figure 2 or channel data memory 320 as shown in figure 3 for storing, i.e., average time between failures, time since last failure, etc. (see paragraphs [0073] and [0094]) for a purpose of predicting reliability of a communication.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of the features of the associative history storing failed association attempts, as taught by Horvitz, into view of Elzein in order to facility optimizing of a communication.

Regarding claims 2-4, Elzein further teaches the channels data in figure 7A and col.5, lines 35-50.

Regarding claims 8-10, Elzein further teaches limitations of the claims in col.3, line 52 through col.4, line 56.

Regarding claim 11, Elzein further teaches limitations of the claims in col.7, lines 32-67.

Regarding claim 12, Elzein teaches a device comprising a controller to scan channels in an order determined by an associated history of a station (col.5, lines 38-50; col.5, line 62 through col.6, line 8).

It should be noticed that Elzein teaches the associative history storing successful association attempts. Elzein fails to clearly teach the associative history storing failed association attempts. However, Horvitz teaches channel data memory 250 as shown in figure 2 or channel data memory 320 as shown in figure 3 for storing, i.e., average time between failures,

time since last failure, etc. (see paragraphs [0073] and [0094]) for a purpose of predicting reliability of a communication.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of the features of the associative history storing failed association attempts, as taught by Horvitz, into view of Elzein in order to facility optimizing of a communication.

Regarding claims 13-14, Elzein further teaches the channels data in figure 7A stored a memory of the mobile terminal and col.5, lines 35-50.

Regarding claims 18-22, Elzein further teaches limitations of the claims in col.3, line 52 through col.4, line 56.

Regarding claim 23, Elzein teaches an article comprising a storage medium, having stored thereon instructions, that when executed, result in:

arranging channels in a sequence for scanning by a station based on an associative history of said station (col.5, lines 38-50; col.5, line 62 through col.6, line 8).

It should be noticed that Elzein teaches the associative history storing successful association attempts. Elzein fails to clearly teach the associative history storing failed association attempts. However, Horvitz teaches channel data memory 250 as shown in figure 2 or channel data memory 320 as shown in figure 3 for storing, i.e., average time between failures, time since last failure, etc. (see paragraphs [0073] and [0094]) for a purpose of predicting reliability of a communication.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of the features of the associative history storing

failed association attempts, as taught by Horvitz, into view of Elzein in order to facility optimizing of a communication.

Regarding claim 24, Elzein further teaches the channels data in figure 7A stored a memory of the mobile terminal and col.5, lines 35-50.

Regarding claim 25, Elzein further teaches limitations of the claims in col.7, lines 32-67.

Regarding claim 26, Elzein teaches a device comprising:

a dipole antenna (see mobile phone 18 in figure 2), and

a controller to scan channels in an order determined by an associated history of a station (col.5, lines 38-50; col.5, line 62 through col.6, line 8).

It should be noticed that Elzein teaches the associative history storing successful association attempts. Elzein fails to clearly teach the associative history storing failed association attempts. However, Horvitz teaches channel data memory 250 as shown in figure 2 or channel data memory 320 as shown in figure 3 for storing, i.e., average time between failures, time since last failure, etc. (see paragraphs [0073] and [0094]) for a purpose of predicting reliability of a communication.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of the features of the associative history storing failed association attempts, as taught by Horvitz, into view of Elzein in order to facility optimizing of a communication.

Regarding claims 27-28, Elzein further teaches the channels data in figure 7A stored a memory of the mobile terminal and col.5, lines 35-50.

3. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elzein (US. Pat. #: 6,259,917) in view of Horvitz (Pub. No.: US 2006/0291580) as applied to claims 1 and 12 above, and further in view of Shi (US. Pat. #: 6,807,163 ***also as applied in the previous Office Action***).

Regarding claims 5 and 16, Elzein and Horvitz, in combination, teaches all subject matters as claimed above, except for ordering the scanned channels based on the transmission quality, etc. However, Shi teaches a mobile phone having a channel history database stored in a memory. The database contains information about channels available in the system, including base station signal strength, interference levels, channel quality, etc. (col.5, lines 53-62).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of channel parameters related to scanned channels to be stored in the memory of the mobile phone, such as transmission quality, or other related channel parameters, etc., as taught by Shi, into view Elzein and Horvitz in order to determine an available channel associated with an access point.

4. Claims 6-7, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elzein (US. Pat. #: 6,259,917) Horvitz (Pub. No.: US 2006/0291580) as applied to claims 1 and 12 above, and further in view of Balogh (Pub. No.: US 2001/0024953 ***also as applied in the previous Office Action***).

Regarding claims 6-7, 15 and 17, Elzein and Horvitz, in combination, teaches all subject matters as claimed above, except for ordering the scanned channels based on the transmission rate, etc. However, Balogh teaches a mobile phone having a channel setting database stored in a

memory. The channel setting comprises information about the possible data rates of channels operable in different networks (see paragraphs [0027]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of channel parameters related to scanned channels to be stored in the memory of the mobile phone, such as transmission rates, or other related channel parameters, etc., as taught by Balogh, into view Elzein and Horvitz in order to determine an available channel associated with an access point.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Klas et al. (US. Pat. #: 6,343,070) also teaches a history list of scanned channels stored in a memory at the wireless terminal. The stored channels, each one is orderly scanned until the wireless terminal the selected channel is identified and the wireless terminal enters the camping state with the selected channel.

Response to Arguments

3/. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

Any response to this final action should be mailed to:
Box AF
Commissioner of Patents and Trademarks
Washington, D.C. 20231
Or faxed to:
(703) 872-9314 or (571) 273-8300 (for formal communications; please mark "EXPEDITED PROCEDURE")
Or:
If it is an informal or draft communication, please label "PROPOSED" or "DRAFT")
Hand Carry Deliveries to:
Customer Service Window
(Randolph Building)
401 Dulany Street
Alexandria, VA 22314

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh K. Tieu whose telephone number is (571) 272-7510 and E-mail address: BINH.TIEU@USPTO.GOV.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz, can be reached on (571) 272-7499 and **IF PAPER HAS BEEN MISSED FROM THIS OFFICIAL ACTION PACKAGE, PLEASE CALL CUSTOMER SERVICE FOR THE SUBSTITUTIONS OR COPIES.**

In formation regarding the status of an application may be obtained from the Patent Application Information Retrieval (FAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the FAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/BINH K. TIEU/
Primary Examiner
Technology Division 2614

Date: September 2007